IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.3277 of 2007

Shri Mahendrasinh Rathod — Applicant
Vs.
Union Territory of Dadara &
Nagar Haveli and ors. — Respondents

Mr.Prakash Naik for applicant.
Mr.D.A.Nalawade, Special Counsel for resp.no.1.
Mr.S.R.Shinde, APP for resp.no.2-State.
Mr.S.V.Marwadi for original complainant.

CORAM: B.H.MARLAPALLE, J.

October 17, 2007.

P.C.

. Heard Mr.Naik, the learned counsel for the applicant and Mr.Nalawade, the learned Standing Counsel for Union of India. Mr.Marwadi appears for the original complainant.

. This application filed under Section 482 of Cr.P.C. impugns the order dated 13/9/2006 passed by the Special Court in Special Case No.1 of 2003. By the said order the Special Court kept pending the application filed by the accused. In the said application the accused had prayed for transfer of the case to the Chief Judicial Magistrate of Dadra and Nagar Haveli at Silvassa on the ground that the

charge against the accused under Section 3(1)(x) of the S.C. and S.T. (Prevention of Atrocities) Act, 1989 was not made out. It was further stated that no charge under the said Act could be supported even prima facie on the basis of the FIR or any other documents placed on record. The Special Court thought it fit to keep the application pending so as to decide at the time of final arguments which were scheduled to take place on 4/9/2006. The Special Court also noted that the trial had already commenced and the evidence of a large number of witnesses was recorded.

. Mr.Naik, the learned counsel for the applicant has also invited my attention to the subsequent order passed on 2/6/2007 by the learned Sessions Judge in Special Case No.1 of 2003 by which an additional charge has been framed reading as under:

> "Fourthly, on the same date, time and place you accused No.2 threatened the complainant to cause injury to his person and thereby committed an offence punishable under Section 506 (Part II) of the Indian Penal Code and within the cognizance of this Special Court."

. Mr.Nalawade, the learned Standing Counsel on the other hand has placed before me a certified true copy of the Roznama in Special Case No.1 of 2003 and has pointed out that from 25/6/2007 onwards the witnesses have remained present continuously before the trial Court and they were not examined and thus the trial has unnecessarily been delayed.

. There is no doubt that the Sessions Court is vested with the powers to amend the charge at any time during the trial of the case before the final verdict is announced. If the charge under the Special Act is not proved on the basis of the evidence adduced by the parties, it is for the learned Sessions Judge to consider the charges under the IPC and he has the powers to do the same. The application was obviously made at the belated stage and that too when the trial had commenced. The Sessions Judge did not commit any error in recording in his order that the application could be considered at the time of final arguments.

. Hence, there is no reason to entertain this application and the same is hereby rejected. The

trial in Special Case No.1 of 2003 is hereby expedited and it is further directed that the same shall be concluded by 31st December 2007.

(B.H.MARL